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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,590	08/19/2003	Richard S. Wallace	ICARI.005C1	5270
20995	7590	01/04/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			MATHEW, FENN C	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,590

Applicant(s)

WALLACE ET AL.

Examiner

Fenn C Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/24/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 12, 14-18, and 26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Frasco et al. (U.S. 6,436,015). Frasco teaches a weight plate including a plate body formed with a central through bore and having a plate periphery, the body further formed with a triad of spaced apart elongated handle openings disposed generally equiangularly and positioned radially outwardly from the central throughbore and at least midway out from the center of the body to the radial periphery, the openings having respective outboard edges cooperating with the plate to define a triad of integral handle elements for grasping by a single hand to effect transport of the weight plate. Frasco further teaches in column 3, lines 20-40, that the weight plate may be formed of a metallic material, include a protective coating, and include chrome plating. Frasco further discloses that the openings are oval shaped, that the plate body can be disc-shaped, and that the plate periphery can be substantially circular or

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polygonal. With respect to claim 9, Frasco further teaches a bar to be used with the weights, wherein the weight plates are slid on the ends of the bar.

3. Referring to claim 10, Frasco teaches a weight plate having a central mounting hole passing transversely through the plate, the plate having a peripheral surface, the plate having a plurality of elongated openings spaced angularly around the central mounting hole, and located between the central mounting hole and the peripheral surface, and a plurality of handgrips formed integrally with the plate, with each of the handgrips sized and adapted to comfortably accommodate a user's hand and being located between one of the elongated openings and the peripheral surface, with the angular spacing between the centers of each of the elongate openings being less than 180°.

Referring to claim 12, Frasco teaches the handles having rectangular cross-section. Frasco further teaches the handgrips having beveled edges. Referring to claims 15-17, Frasco teaches the plates formed from iron, having a rubber coating, and also teaches having the iron plate chrome plated. Frasco further teaches the openings having a center located at an angle of approximately 120° with respect to each other. With respect to claim 26, Frasco teaches a first flat surface formed on the perimeter surface at one of the handgrips and a second flat surface formed on a side of the handgrip facing elongate opening, and the second flat surface is longer than the first flat surface (see fig. 5).

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frasco alone. Frasco teaches the claimed invention except for the handgrips having a circular or octagonal cross-section. Handgrips having circular, octagonal, and rectangular cross-sections are notoriously old and well known in the art. The feature of having handgrips of Frasco having such a cross-section would be considered a matter of simple design choice absent unexpected or undesired results.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frasco and further in view of the Iron Grip Barbell Co. brochure, "FIRST WE INVENTED THE WHEEL, NOW WE'VE PERFECTED IT", (first distributed to the public at the International Health, Racquet, and Sports Club Association Trade Show, April 10-13, 1997). Frasco fails to disclose a first transverse width in an area between the openings that is greater than the transverse width of the handgrips. The Iron Grip brochure teaches such an arrangement (see the 100 lb. weight). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Frasco by setting a first transverse width in an area between the openings (surrounding the central circular opening) that is greater

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than the transverse width of the handgrips since the Iron Grip brochure suggests that such a configuration would be useful, at least on heavier weights.

7. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frasco in view of the Iron Grip Barbell Co. brochure, "FIRST WE INVENTED THE WHEEL, NOW WE'VE PERFECTED IT", (first distributed to the public at the International Health, Racquet, and Sports Club Association Trade Show, April 10-13, 1997), as applied to claim 19 above, and further in view of Standish (U.S. 5,853,355). Frasco fails to disclose the specific dimensions as claimed. Standish teaches an analogous weight plate in which the difference between the first and second transverse widths is large enough to accommodate the bony portions of a human hand (col. 5, lines 21-24). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Frasco by setting the difference between the first and second transverse widths to be large enough to accommodate the bony portions of a human hand since Standish teaches that such a configuration would allow the weights to be easily lifted from the floor or separated from one another when on a bar. With respect to claim 25, inasmuch as Standish specifies the dimension H_f in fig. 6, to be $\frac{3}{4}$ inch (col. 5, lines 37-38), and the depth D takes away approximately $\frac{2}{3}$ of that dimension as seen in the figures, the difference is approximately $\frac{1}{2}$ inch. Further, inasmuch as both Standish and the instant application teach that the depth should accommodate the bony portions of the hand, (col. 5, lines 21-24), it would have been obvious to one of ordinary skill in the art at the time of invention

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to modify the depth D to be at least ½ inch if routine experimentation showed such a dimension suitable for that purpose.

Allowable Subject Matter

8. Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or reasonably suggest the base limitations as discussed above, and further having the peripheral surface of the plate generally flat at locations adjacent the handgrips, and arcuate between flat locations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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December 29, 2004


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
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1/3/05